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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X

DWIGHT BARKSDALE,

Plaintiff,

Civil Action No.
06 CV 6264 (LAP)
NOTICE OF REMOVAL

-against-

NEW YORK OIL HEATING
INSURANCE FUND,

Defendant.

-----X

TO: Dwight Barksdale
Plaintiff *Pro Se*
89 Metropolitan Oval
Apartment 11E
Bronx, New York 10462

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441, defendant New York Oil Heating Insurance Fund, by its attorney, Jeffrey S. Dubin, hereby removes this action from the Civil Court of the City of New York, County of Bronx, to the United States District Court for the Southern District of New York. Defendant appears solely for the purpose of removal and for no other purpose, reserving all other defenses available to it, and alleges as

follows:

1. Defendant New York Oil Heating Insurance Fund (the Fund) is and was an employee benefit plan within the meaning of Section 3(3) of E.R.I.S.A., 29 U.S.C. § 1002(3).

2. The Fund is and was administered within this district within the meaning of Section 502(e)(2) of E.R.I.S.A., 29 U.S.C. § 1132(e)(2), to wit, within the City, County and State of New York.

3. The Fund is the only defendant in this action.

4. Plaintiff, Dwight Barksdale, is a natural person, and a resident and citizen of this district, to wit, the State and City of New York, County of the Bronx.

5. Dwight Barksdale was, until March 31, 2006, a participant in the Fund.

6. This Notice of Removal is being filed within thirty (30) days after receipt by the defendant of a Notice of Claim and Summons on July 25, 2006, and thus is timely filed pursuant to 28 U.S.C. § 1446(b).

7. The plaintiff seeks “to recover monies arising out of nonpayment” of a benefit from an employee benefit fund. Annexed hereto in compliance with 28 U.S.C. § 1446(a) is a copy of the Notice of Claim and Summons, which is the only pleading received by defendant.

8. This action has been removed to this Court pursuant to 28 U.S.C. § 1441.

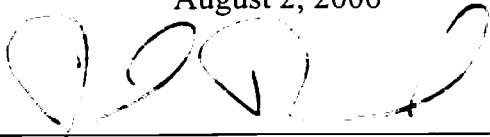
9. Federal Question Jurisdiction in the United States District Court for the Southern District of New York is founded upon 28 U.S.C. § 1331 and 29 U.S.C. § 1132.

This is a suit by a former participant of an employee benefit fund to recover benefits. The suit could have originally been filed in this Court under 29 U.S.C. § 1132 and 28 U.S.C. § 1331.

10. Defendant shall promptly file a copy of this Notice of Removal in the Civil Court of the City of New York, County of the Bronx, and will serve a copy of the same on the plaintiff in accordance with 28 U.S.C. § 1446(a).

Wherefore, defendant gives notice that the above captioned action commenced against it in the Civil Court of the City of New York, County of the Bronx, has been removed to this Court.

Dated: Huntington, New York
 August 2, 2006



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DECLARATION OF SERVICE BY MAIL


STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

Christine Smith, hereby declares, pursuant to 28 U.S.C. § 1746 and Local Civil Rule 1.10 of this Court, that I am not a party to the action; I am over 18 years of age and reside at Huntington Station, New York 11746.

On August 2, 2006, I served the within Notice of Removal, by depositing a true copy of the same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, addressed to each of the following persons at the last known address set forth after each name:

Dwight Barksdale
Plaintiff *Pro Se*
89 Metropolitan Oval
Apartment 11E
Bronx, New York 10462

I declare under penalty of perjury that the foregoing is true and correct. Executed on
August 2, 2006.


Christine Smith